

Senate Amendment 3046

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1 1 Amend Senate File 37 as follows:
1 2 #1. Page 1, by inserting after line 4 the
1 3 following:
1 4 <Sec. ___. Section 321J.2, subsection 2, paragraph
1 5 a, subparagraph (1), Code 2003, is amended to read as
1 6 follows:
1 7 (1) Imprisonment in the county jail ~~for not less~~
1 8 ~~than forty-eight hours up to one year~~, to be served as
1 9 ordered by the court, less credit for any time the
1 10 person was confined in a jail or detention facility
1 11 following arrest. However, the court, in ordering
1 12 service of the sentence and in its discretion, may
1 13 accommodate the defendant's work schedule.
1 14 Sec. ___. Section 321J.2, subsection 2, paragraphs
1 15 b and c, Code 2003, are amended to read as follows:
1 16 b. An aggravated misdemeanor for a second offense,
1 17 and ~~shall may~~ be imprisoned in the county jail or
1 18 community-based correctional facility ~~not less than~~
1 19 ~~seven days up to two years~~, and ~~shall be~~ assessed a
1 20 fine of not less than one thousand five hundred
1 21 dollars nor more than five thousand dollars.
1 22 c. A class "D" felony for a third offense and each
1 23 subsequent offense, and ~~shall may~~ be committed to the
1 24 custody of the director of the department of
1 25 corrections for an indeterminate term not to exceed
1 26 five years, ~~shall be confined for a mandatory minimum~~
1 27 ~~term of thirty days~~, and shall be assessed a fine of
1 28 not less than two thousand five hundred dollars nor
1 29 more than seven thousand five hundred dollars.
1 30 (1) If the court does not suspend a person's
1 31 sentence of commitment to the custody of the director
1 32 of the department of corrections under this paragraph
1 33 "c", the person shall be assigned to a facility
1 34 pursuant to section 904.513.
1 35 (2) If the court suspends a person's sentence of
1 36 commitment to the custody of the director of the
1 37 department of corrections under this paragraph "c",
1 38 ~~the court shall order the person to serve not less~~
1 39 ~~than thirty days nor more than one year in the county~~
1 40 ~~jail, and the person may be committed to treatment in~~
1 41 the community under section 907.6.
1 42 Sec. ___. Section 321J.2, Code 2003, is amended by
1 43 adding the following new subsection:
1 44 **NEW SUBSECTION.** 2A. In ordering service of the
1 45 defendant's sentence under subsection 2, paragraph
1 46 "a", "b", or "c", the court may order the defendant to
1 47 perform a specified amount of unpaid community
1 48 service, assign the defendant to a substance abuse
1 49 treatment facility, or order the defendant to attend
2 1 and participate in a reality education substance abuse
2 2 prevention program or drinking drivers course, or any
2 3 combination of the foregoing, in lieu of the sentence
2 4 of confinement.
2 5 Sec. ___. Section 321J.2, subsection 3, paragraph
2 6 a, unnumbered paragraph 1, Code 2003, is amended to
2 7 read as follows:
2 8 Notwithstanding the provisions of sections 901.5
2 9 ~~and 907.3, the court shall not defer judgment or~~
2 10 ~~sentencing, or suspend execution of any mandatory~~
2 11 ~~minimum sentence of incarceration applicable to the~~
2 12 ~~defendant under subsection 2, and shall not suspend~~
2 13 execution of any other part of a sentence not
2 14 involving incarceration imposed pursuant to subsection
2 15 2, if any of the following apply:
2 16 Sec. ___. Section 321J.2, subsection 3, paragraph
2 17 d, Code 2003, is amended to read as follows:
2 18 d. A ~~minimum~~ term of imprisonment in a county jail
2 19 or community-based correctional facility imposed on a
2 20 person convicted of a second or subsequent offense
2 21 under subsection 2 shall be served on consecutive
2 22 days. However, if the sentencing court finds that

2 22 service of the full minimum term on consecutive days
2 23 would work an undue hardship on the person, or finds
2 24 that sufficient jail space is not available and is not
2 25 reasonably expected to become available within four
2 26 months after sentencing to incarcerate the person
2 27 serving the ~~minimum~~ sentence on consecutive days, the
2 28 court may order the person to serve the ~~minimum~~ term
2 29 in segments of at least forty-eight hours and to
2 30 perform a specified number of hours of unpaid
2 31 community service as deemed appropriate by the
2 32 sentencing court.>

2 33 #2. Page 1, by inserting after line 25, the
2 34 following:

2 35 <Sec. __. Section 907.3, subsection 3, paragraph
2 36 c, Code 2003, is amended to read as follows:

2 37 c. ~~A mandatory minimum sentence of incarceration~~
~~2 38 imposed pursuant to a violation of section 321J.2,~~
~~2 39 subsection 1; furthermore, the court shall not suspend~~
~~2 40 any Any part of a sentence not involving incarceration~~
2 41 imposed pursuant to section 321J.2, subsection 2,
2 42 beyond the mandatory minimum if any of the following
2 43 apply:>

2 44 #3. Title page, line 1, by striking the words and
2 45 figure <providing for a .08 blood alcohol
2 46 concentration limit for> and inserting the following:
2 47 <relating to>.

2 48 #4. By renumbering as necessary.

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2 50

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3 2 _____
3 3 DAVID MILLER

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3 6 _____
3 7 BOB BRUNKHORST
3 8 SF 37.201 80
3 9 rh/sh